S.B. Criminal Revision Petition No.409/2007.
(Shanker Das Vs. State of Rajasthan)

DATE OF ORDER : May 07, 2007

P R E S E N T

Hon'ble Mr. Justice Gopal Krishan Vyas

Mr. Ramesh Purohit for the petitioner.
Mr. Ashok Upadhyay, P.P.

BY THE COURT :

By this petition, the petitioner is praying for quashing the impugned order dated 08.04.2007 whereby application filed by the petitioner for releasing the tractor alongwith trolley which was seized in connection with FIR No.24/2007, P.S. Akola (Distt. Chittorgarh) was rejected and further prayed for releasing both tractor and trolley on supardginama.

Before the Court below, the petitioner filed application being power of attorney holder, for release of tractor No.RJ-09/R-7568 and trolley No.RNY-8145. The said tractor and trolley were seized as at the time of seizure the petitioner was carrying forest produce illegally. The Judl. Magistrate, Kapasan, therefore, rejected the application filed under Section 457,

Cr.P.C. for release of the vehicle on supardginama in the light of the observations made by the Hon'ble Supreme Court in the case of Section Officer Vs. Manzoor Ali Khan, reported in AIR 2004 SC 1251.

I have perused the impugned order. It is admitted case of the prosecution that at the time of inspection some forest produce viz., neem and khejari woods was found in the trolley. Such facts and circumstances have been elaborately dealt with by this Court in the case of Vikas Vs. State of Rajasthan, S.B. Criminal Misc. Petition No.122/2006, decided on 02.02.2006, wherein this Court took notice of the fact that identical shrubs and trees grow in the agricultural fields also which are the main source of kitchen fire in rural Rajasthan and, therefore, while interpreting the provisions of the Forest Act the Court should not let all such aspects of the matter be lost sight of. In this view of the matter, the facts of the present case are different and as such direct reliance for following the line of principle may not be placed on the judgment of the apex Court.

For the foregoing reasons, in the interest of justice, I am inclined to accept the revision petition. The order impugned dated 18.04.2007 passed by the Judl. Magistrate (First Class), Kapasan (Distt. Chittorgarh) in Misc. Criminal Case No.146/2007 is set aside. The trial Court is directed to release the tractor

and trolley in question to the petitioner on supardginama provided the petitioner executes a personal bond in the sum of Rs.1,00,000/- and furnishes one solvent security in the like amount to the satisfaction of the trial Court, on usual terms and conditions.

(Gopal Krishan Vyas) J.